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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF MASSACHUSETTS

4
5 IN RE: NEW ENGLAND COMPOUNDING) MDL NO. 13-02419-RWZ
6 PHARMACY CASES LITIGATION)
7)
8)

9 BEFORE: THE HONORABLE RYA W. ZOBEL AND
10 THE HONORABLE JENNIFER C. BOAL
11

12 **STATUS CONFERENCE**
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16 John Joseph Moakley United States Courthouse
17 Courtroom No. 12
18 One Courthouse Way
Boston, MA 02210

19 June 22, 2016
20 2:00 p.m.
21

22 Catherine A. Handel, RPR-CM, CRR
23 Official Court Reporter
24 John Joseph Moakley United States Courthouse
25 One Courthouse Way, Room 5205
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(Appearances continued on the next page.)

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P R O C E E D I N G S

(The following proceedings were held in open court before the Honorable Rya W. Zobel, United States District Court Judge, and the Honorable Jennifer C. Boal, Magistrate Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, One Courthouse Way, Boston, Massachusetts, on June 22, 2016.)

JUDGE ZOBEL: Good afternoon. Please be seated.

MS. JOHNSON: Good afternoon, your Honors.

JUDGE ZOBEL: I note that there are fewer lawyers here, but I understand that we have more than ever on the telephone.

MS. JOHNSON: We do, your Honor. Out of an abundance of caution, because we had a number of filings in response to the Court's show cause order, the PSC had suggested that attorneys participating by telephone, should the Court want to hear from them -- we understand that the Court may not wish to do so, but at least wanted people to be available if you had questions.

JUDGE ZOBEL: I certainly appreciate your concern about those lawyers, but when has the Court wanted to hear from you?

(Laughter.)

MR. STRANCH: But there's 70, your Honor, seven zero.

JUDGE ZOBEL: You're all welcome. However, we have

1 some -- a little bit of business before we get to that, right?

2 MS. JOHNSON: Yes, your Honor.

3 So, the agenda starts by identifying two Specialty
4 Surgery Center-related discovery motions that were heard this
5 morning before Judge Boal. Aside from those two motions,
6 there were none for which the parties requested oral argument.
7 So, I think we can move directly to the report to the Court
8 section of the agenda, letter C.

9 JUDGE ZOBEL: Okay.

10 MS. JOHNSON: And so, we start with No. 3, which is
11 the status of the bankruptcy, and Ms. Wintle will discuss that
12 for the trustee -- post confirmation officer.

13 JUDGE ZOBEL: I'm sorry. Ms. Winslow?

14 MS. WINTLE: Wintle, W-i-n-t-l-e.

15 JUDGE ZOBEL: Okay.

16 MS. WINTLE: Good afternoon.

17 Not a lot to report again on the status of the
18 bankruptcy, not a lot of activity on the bankruptcy docket.
19 The bankruptcy court did enter an order allowing a motion to
20 deem a late-filed claim timely, and I think, as I reported to
21 the Court last status conference, the post confirmation
22 officer has collected the 2014 tax refunds and the 2015
23 returns are processing.

24 JUDGE ZOBEL: That's it?

25 MS. WINTLE: That's it, your Honor.

1 JUDGE ZOBEL: Thank you very much.

2 MS. WINTLE: Thank you.

3 JUDGE ZOBEL: Is there anyone among the 70 on the
4 telephone who did not clear well enough?

5 (No response.)

6 JUDGE ZOBEL: That's good. Okay.

7 MS. JOHNSON: Mr. Sobol wanted to address the status
8 of the bankruptcy, your Honor.

9 (Discussion off the record.)

10 MR. SOBOL: I have to be pointed in the right
11 direction by Ms. Johnson own all matters, your Honor. Good
12 afternoon.

13 There are, I think, three issues I want to bring to
14 your attention that are related to bankruptcy matters. The
15 first is the timing of payments to claimants. The second is
16 status of healthcare liens and the --

17 JUDGE ZOBEL: The Status of?

18 MR. SOBOL: Of healthcare liens of reimbursements to
19 healthcare --

20 JUDGE ZOBEL: I don't think your microphone is on.

21 (Discussion off the record.)

22 MR. SOBOL: And will be the status of healthcare
23 liens, and then the third will be the retirement of Judge
24 Boroff.

25 So, first, turning to the timing of payments. It's

1 important to understand that of the approximate 3,000
2 claimants that there are for the tort trust, that there is a
3 sequence of approvals of the claims. Currently there are
4 approximately 1200 claimants whose claims have been approved
5 and for whom there is no appeal or dispute. The remaining, of
6 course, are in some other part of a process of approval or
7 appeal, or what have you.

8 It's also important to understand that there are
9 initial payments that go to any claimant whose claim has been
10 approved, and then there will be later payments to that
11 claimant, essentially, as a true-up, if you will, once all
12 claims have been disposed of.

13 JUDGE ZOBEL: So, it is anticipated to have two
14 payments?

15 MR. SOBOL: At least two claimants, depending upon
16 how this administratively works out.

17 JUDGE ZOBEL: And when is it anticipated that the
18 first payment will be due?

19 MR. SOBOL: So, the first -- yes, the first 1200
20 claimants we are -- I am driven to get them their payments in
21 August of this year, in a couple of months. There's a bit
22 more of the process to that that I'll turn to in a moment, but
23 just so that you understand, what I'm going to try to drive
24 the claims administrator and the tort trustee to do -- and
25 everybody has been working very hard on this -- is to have

1 initial payments go out in August to the 1200 or so people who
2 have been teed up for them, that whatever number of more
3 claims that can be approved get paid in October, two months
4 later, and then, also, whatever additional claimants are then
5 approved be done in December, essentially, in two-month lots,
6 if you will, to try get as many claims paid this year as
7 possible.

8 JUDGE ZOBEL: What is causing the delay of -- you
9 said there were about 3,000 all together?

10 MR. SOBOL: Yes.

11 JUDGE ZOBEL: So, the 1800 who are still waiting, why
12 are they still waiting? Just simply because so many could not
13 be processed at one time?

14 MR. SOBOL: Well, that's a part of it, but then there
15 are differences of opinion as to where they should land in the
16 matrix. And so, there's a process by which someone might be
17 able to appeal that issue. Sometimes there are inadequacies
18 in the submission that has been made and the submission needs
19 to be supplemented.

20 I will say that the claims administrator and there
21 are a couple on the PSC and also Mr. Ellis, who is sitting
22 behind me, Rick Ellis, have been quite vigilant on being on
23 top of the claims administrator. I have no information to
24 suggest that anybody has been in any way dragging their heels
25 or anything at all like that. It's simply trying to deal with

1 the logistics of the situation.

2 Now -- so, essentially, the goal, then, is to try to
3 have as many of the claims approved or denied or resolved this
4 year as possible and have the payments go out in those three
5 lots to as many of the total 3,000 claimants who are entitled
6 to any portion of the money.

7 There is an additional footnote, which is that under
8 the terms of a settlements, there is a supplemental payment
9 that's made for certain tax benefits that the settling
10 defendants have provided to the tort trust that might become
11 available in two or three years. It's really -- actually,
12 it's quite some period of time, but I didn't want to omit
13 saying that, but just so you understand the overall structure.
14 In order to wait for certain issues of potential claw-back on
15 those tax benefits, that kind of thing, that might happen much
16 later on. And, of course, this process might take up --
17 essentially, the true-up payments occur in 2017 for the
18 approved claims. So, that's the timing of the payments.

19 The timing of the payments, however, also is
20 dependent on resolving any claims that healthcare plan
21 sponsors, healthcare insurers, or the Federal Government, or
22 state governments under Medicaid, might have to all or a
23 portion of the money that's going to the claimants. So, the
24 PSC and the tort trustee have carved out a role for trying to
25 resolve as many of those liens as they have notice of.

1 So, I'm now going to walk through that and, again,
2 I'm doing this both for the Court, but also for the lawyers
3 who are on the phone and for the lawyers who are here in
4 court.

5 First, there's been an extensive negotiation with the
6 Center for Medicare and Medicaid Services or whatever their
7 current name is, CMS, and including even today. We have
8 virtually reached an agreement with them.

9 There is one remaining clause to the release that
10 needs to be finalized, if not this afternoon, tomorrow, with
11 CMS to have a proposed resolution with CMS under that proposed
12 resolution, there will be a methodology to resolve those liens
13 with CMS for the vast bulk of the claimants who are Medicare
14 eligible during the time period that we believe that people
15 are receiving medical assistance or medical payments from
16 Medicare.

17 People, lawyers, or claimants who are dissatisfied
18 with that proposed resolution will have the right to opt out
19 of that resolution with Medicare and pursue an individual
20 negotiation with Medicare if they like.

21 JUDGE ZOBEL: But how does that work with respect to
22 payments?

23 MR. SOBOL: Right, and you're anticipating my next
24 point. If someone is Medicare eligible and participating in
25 this plan with Medicare, then the payment will go out, the

1 payment will go out to the claimant and to Medicare as -- in
2 our time period that has joined. It happens at the same time.
3 There's a percentage depending upon where someone is in the
4 matrix and the checks go out X percentage to the claimant and
5 Y percentage to CMS.

6 JUDGE ZOBEL: Not one check payable jointly?

7 MR. SOBOL: No. There will be two checks that go
8 out.

9 JUDGE ZOBEL: If the claimant, not the -- if the
10 injured person disagrees with the payment to Medicare, how do
11 they deal? They have to go to Medicare and ask for it back?

12 MR. SOBOL: No. So, then we will find out before the
13 checks go out this -- in July, whether someone, a claimant and
14 their counsel, agree or disagree to have their client
15 participate in the Medicare proposed settlement. If they
16 agree with it, then when the checks are cut, the percentage
17 goes one to the Medicare-eligible claimant and the other to
18 Medicare.

19 If, on the other hand, they disagree, they don't want
20 to participate in this plan, then the tort trustee will likely
21 hold the money until the time that that tort trustee receives
22 a certificate indicating that there either is a deal in place
23 or it has otherwise been resolved.

24 And so, it would be upon the claimant to act with all
25 dispatch and the lawyer to be dealing with Medicare and to

1 pursue whatever resolutions they want.

2 Given federal laws that, arguably, impose liability
3 upon the tort trustee for the tort trustee disbursing those
4 funds in the absence of a resolution with Medicare, the tort
5 trustee, on my recommendation, is required to withhold that
6 money until that time, simply because of the potential -- I'm
7 not saying that it's real, or whatever, but there's a
8 potential that there's an exposure to the tort trustee under
9 those circumstances. So, that's one thing we've done with
10 CMS, okay?

11 There are also three groups of insurance companies,
12 healthcare insurers, private healthcare insurers that have
13 raised claims that their clients are entitled to some form of
14 reimbursement, and we are in the process of seeing if those
15 insurers will agree, in form or substance, to a similar, if
16 not identical kind of program that we also have with CMS we
17 are not as far along with them as we are with CMS, but we've
18 been having discussions with them daily over the past several
19 weeks to work out that as well.

20 JUDGE ZOBEL: Do they operate as a group or
21 individually?

22 MR. SOBOL: There are -- there's one group of lawyers
23 that represent Blue Cross/Blue Shield of Tennessee. There's
24 another group that represents Blue Cross/Blue Shield of
25 Michigan. If you recall, those are two jurisdictions where

1 there are a significant number of claimants. Then there's a
2 third law firm, Rolands & Associates that represents a large
3 group of the large commercial health insurers in the United
4 States that is negotiating or discussing things as a group.

5 Now, it's important to understand that -- and we're
6 going to also write a letter to all the lawyers about this,
7 too, and it's going to go out Friday or Monday -- that this is
8 the -- that this is the group of private health insurers that
9 we have been speaking with.

10 It needs to be understood that self-insured employers
11 and health plans, there are about 35,000 of them in the United
12 States. It is literally impossible to negotiate with all of
13 them at any one period of time. And so, we will -- I indicate
14 to the lawyers for all claimants the identities of the
15 insurers that we are trying to put together a proposal for
16 which they would participate in and if they choose to, they
17 will, and if they choose not, they'll go out on their own,
18 just like they do with CMS, but they aren't negotiating with
19 all hate insurers, and we cannot. So, if they have reason to
20 think that their client has any private health insurance, they
21 should individually negotiate that so an appreciate
22 certification can go to the tort trustee in a timely manner so
23 that the funds may go out to that claimant as well. So, we'll
24 be indicating in some correspondence to, you know, counsel of
25 record for the claimants the form of the certification that we

1 need for the tort trustee to release the money.

2 JUDGE ZOBEL: Other than the pro se claimants, are
3 there any with whom you have to deal directly as opposed to
4 their lawyers?

5 MR. SOBOL: No. No.

6 JUDGE ZOBEL: There are only very few pro se's,
7 right?

8 MR. SOBOL: That's right.

9 (Attorney Sobol's umbrella falls.)

10 JUDGE ZOBEL: You go ahead.

11 MR. SOBOL: I just keep on forgetting it in the
12 courtroom. So I have to keep it close.

13 So, there are none, no others.

14 And the reason I mention this is I got, as an
15 example -- it's a real-world problem -- I got an email the
16 other day some very good lawyers who are diligently
17 representing their clients, people have had some very serious
18 medical illnesses, just -- medical problems by reason of this
19 just by looking at the size of the liens that they have, but
20 they've got liens from three or four different insurers, and
21 some of them -- one of them might be CMS, one of them might be
22 one of the healthcare, you know, insurance companies that
23 we've been dealing with, but then there are a couple of others
24 that are small ones that we don't know and we haven't been
25 negotiating with. So, in any event, we're going to get this

1 notice out to them as promptly as we can. So, I guess that's
2 where we are with all of that.

3 Then the final thing I wanted to --

4 MR. ELLIS: Mr. Sobol, can I make one correction?

5 MR. SOBOL: Yes.

6 MR. ELLIS: I just don't want the lawyers to kind of
7 misunderstand.

8 MR. SOBOL: Yes.

9 MR. ELLIS: There are actually 2350 claimants, not
10 3,000.

11 MR. SOBOL: There we go. So, there's fewer than I
12 thought.

13 JUDGE ZOBEL: Fewer letters.

14 MR. SOBOL: What's that?

15 JUDGE ZOBEL: Fewer letters.

16 MR. SOBOL: Fewer letters, too.

17 (Discussion off the record.)

18 MR. SOBOL: My understanding is that Judge Boroff,
19 who, obviously, sat on the bankruptcy in this matter and still
20 has a role, is retiring at some point this summer or fall.
21 There are some -- as you are aware, there are some legacy
22 issues that under the agreements and the plan that was put
23 into place, that need to be dealt with by Judge Boroff. There
24 are either some reporting requirements and there's some other
25 potential other -- relatively administrative matters for the

1 bankruptcy court to address. And so, simply, as a matter of
2 expediting things -- and I don't know what the answer is to
3 this, but I, with all respect, suggest that if this Court
4 could speak with Judge Boroff and find out what
5 administratively makes the most amount of sense. Does it make
6 sense to withdraw the reference and have this Court simply be
7 the one place -- one-stop shopping, if you will, or does it
8 make more sense for whoever is going to take over the matter
9 at the bankruptcy court to take it on and get up to speed on
10 things, and I don't make any particular suggestion in that
11 regard because I don't know what else might be involved, but I
12 put that out there for the Court to address if it thinks it's
13 appropriate to.

14 JUDGE ZOBEL: Do you have a sense as to how much
15 longer the process will take before --

16 MR. SOBOL: Well, I think, technically, it's going to
17 go on -- their legacy issues will exist for a considerable
18 period of time. They won't be large. They won't be often as
19 time goes on, but given the way that the plan is drafted and
20 there are these tax benefits that just, you know, hang around
21 for a long period of time, I think you should just expect that
22 administratively there'll be something to do for two or three
23 years, at least. Again, not a lot. No heavy lifting of any
24 kind, I don't think.

25 So, Ms. Johnson also mentioned that maybe I should

1 also address one other thing now that I've got the floor and
2 then I'll -- if that's acceptable, your Honor.

3 JUDGE ZOBEL: Yes.

4 MR. SOBOL: You recall, your Honor, that there's also
5 -- one of the things that this Court needs to address is the
6 common benefit fee and expense order and allocation. So,
7 there is a need to address both whether there should be a
8 common benefit fee. If so, what the percentage should be.
9 And, also, approve or modify any allocation of those fees and
10 expenses. That's a matter that needs to be addressed.

11 So, over a period of time, a subcommittee of the
12 Plaintiffs' Steering Committee has requested submissions and
13 has reviewed submissions of firms, both for their time and
14 their expenses. The PSC is planning on having a meeting in
15 the middle of July to sit down and see if we can come to a
16 joint recommendation regarding the allocation of those fees
17 and expenses, and what I would like to suggest is a process
18 for this Court to consider that submission.

19 So, I'm just going to put out -- throw out some dates
20 and we'll see what happens and we'll see if someone squawks
21 about it, but since the PSC is going to meet in the middle
22 July, I would suggest that the PSC file any proposed
23 recommendation on or before August 1st, that any objections,
24 people would have four weeks to make an objection, which would
25 be August 29th; that the PSC then have about four weeks to

1 respond to that by way of a reply for September 26th --

2 JUDGE ZOBEL: I'm sorry. What was the date second
3 date?

4 MR. SOBOL: August 29th --

5 JUDGE ZOBEL: Okay.

6 MR. SOBOL: -- for any objections; that there then be
7 a reply by the PSC on September 26th, 2016; and that the Court
8 conduct a hearing, whether in October or November, depending
9 upon what -- you know, how much time it wants to have between
10 when it has all the submissions and when it wants to have a
11 hearing.

12 And what I would also say is that the timing of this
13 -- the reason I'm putting this timing out is so that any
14 resolution on the common benefit fee will be happening at a
15 point in time such that there will never be an entitlement of
16 the lawyers to receive fees and expenses until the clients are
17 getting the money. So, just to make sure that there's an
18 appropriate timing of things.

19 JUDGE ZOBEL: Is it contemplated that the PSC
20 proposal be preceded by an attempt to get resolution among all
21 of you?

22 MR. SOBOL: That's a good question. So, it's
23 assumed, although not necessarily clear, that even the PSC
24 will have its own view. If what you're suggesting -- and this
25 might be helpful -- is that we build into the process that the

1 PSC send to all the lawyers a proposed -- just to the lawyers
2 our proposed recommendation, and see what they come back with,
3 and then we revisit our recommendations before it's brought to
4 the Court, then I suggest that I will -- that we move these
5 dates, and the PSC will make its proposed recommendation,
6 therefore, on September 26th, 2016, because then we will have
7 made our recommendation to everybody.

8 JUDGE ZOBEL: We're moving the schedule back from
9 August 1 to September 26?

10 MR. SOBOL: Correct. Right. Because what I would
11 do, your Honor -- I'm not trying to make this complicated, but
12 the PSC will still make the recommendation, but will make it
13 only to the lawyers on August 1st, and then we'll finish our
14 negotiations or our discussions with the lawyers by August
15 29th, such that we -- I guess we file our proposed
16 recommendation September 26th, and then four weeks thereafter
17 that get formal objections to the Court.

18 JUDGE ZOBEL: And objections you previously had at
19 about four weeks later?

20 MR. SOBOL: Yes.

21 JUDGE ZOBEL: So, this would again be four weeks
22 later?

23 MR. SOBOL: Correct.

24 JUDGE ZOBEL: That would make it around October 20 or
25 thereabouts, right?

1 (Discussion off the record.)

2 MR. SOBOL: Yes. I'm trying to -- four weeks after
3 September 26th, your Honor. I don't have my calendar in front
4 of me, I'm sorry.

5 JUDGE ZOBEL: You're about to find out.

6 MR. SOBOL: Here we go.

7 COURTROOM DEPUTY CLERK YORK: 24.

8 JUDGE ZOBEL: October 24?

9 COURTROOM DEPUTY CLERK YORK: Yes.

10 JUDGE ZOBEL: And then the reply --

11 MR. SOBOL: Then the reply would be November 21st.
12 So, you would be making your decision --

13 JUDGE ZOBEL: Then we would have a hearing at the
14 December --

15 MR. SOBOL: Yes.

16 JUDGE ZOBEL: -- at the December meeting.

17 MR. SOBOL: Yes. If it's agreed, I guess the lawyers
18 will get paid this year.

19 JUDGE ZOBEL: Assuming I act quickly.

20 Now, the lawyers will get paid out of the same trust
21 fund, right?

22 MR. SOBOL: Yes.

23 JUDGE ZOBEL: Is there an understanding at this point
24 as to what portion, what percentage of the trust fund is going
25 to go to lawyers?

1 MR. SOBOL: Yes. The preliminary -- the pretrial
2 orders in this Court indicated that as much as eight percent
3 of the gross of the funds that would be available would go to
4 the common benefit fee and expenses. I think that the
5 reported lodestar and expenses by all firms exceeds the eight
6 percent. I'm not going to prejudge things, but I think that
7 the recommendation of the PSC will be that it comes in at
8 eight percent for the fees and expenses. So, you can see that
9 the recommendation is really one of an allocation among the
10 lawyers of an amount of money that's less than what their time
11 and expenses indicates.

12 JUDGE ZOBEL: Okay. Well, it sounds like a
13 reasonable way to go. All right.

14 MS. JOHNSON: That brings us to No. 4, your Honor,
15 the status of the insurance declaratory judgment actions.

16 MR. STRANCH: Good afternoon, your Honor. Gerard
17 Stranch on behalf of the PSC.

18 Since the last time we spoke on the declaratory
19 judgment action, Judge Sharp has certified a question to the
20 Tennessee Supreme Court.

21 JUDGE ZOBEL: Are they as slow as the SJC?

22 MR. STRANCH: It's finally moving, at least. So, now
23 we start through the process of briefing and determining
24 whether the Tennessee Supreme Court is going to take the
25 question or not, and that process -- we went through it about

1 a year ago and it took about nine months to get a ruling.

2 JUDGE ZOBEL: What is the impact of these insurance
3 coverage cases on this case?

4 MR. STRANCH: This insurance declaratory judgment
5 action is for an insurance policy that, as I understand it,
6 would only provide coverage if we're allowed to bring a
7 products liability case. So, the question being presented to
8 the Tennessee Supreme Court is: Are we allowed to bring a
9 products liability case?

10 JUDGE ZOBEL: Is that the question or whether what
11 you have brought is a product liability case?

12 MR. STRANCH: Well, your Honor, it's actually a
13 little bit more nuisanced. There's both questions, the one
14 that I presented and the one that she did, are contained
15 within the paragraph this long (indicating) question.

16 JUDGE ZOBEL: It will be interesting.

17 MR. STRANCH: We'll see.

18 And this applies only to the Specialty Surgery Center
19 defendants that are still in front of the Court also in
20 Tennessee and have approximately 24, 25 cases.

21 JUDGE ZOBEL: All right. Discovery: No status.

22 MS. JOHNSON: There's an unfortunate typo there, your
23 Honor. The agenda suggests that no discovery has been done.
24 I assure you that is not true, but if we look to 5(a), we have
25 had rulings from the Court since the last time granting the

1 motion to quash the Emory Clinic and Vanderbilt subpoenas.

2 That then brings us to Item 6, status of the
3 litigation track, and Mr. Stranch will address the Saint
4 Thomas.

5 JUDGE ZOBEL: Now, the Saint Thomas docket number is
6 2921, is it not? It's the subsequent order, not the first
7 one.

8 MS. JOHNSON: That's correct.

9 MR. STRANCH: That's correct, your Honor.

10 JUDGE ZOBEL: Okay.

11 MR. STRANCH: And to update the Court on where we
12 are, we have a written MOU where we've agreed upon all the
13 material terms with Saint Thomas and the Saint Thomas
14 Entities. We are still wordsmithing a couple of concepts that
15 we were all generally in agreement of for two sections. We
16 anticipate resolving that in the next day or two because we've
17 exchanged a couple of different drafts on that, and hope that
18 by next week we'll be sending out the documents for signatures
19 by the various clients so that we can move forward on
20 resolving that aspect of the litigation.

21 JUDGE ZOBEL: How many plaintiffs are there in this
22 -- in that piece of the litigation?

23 MR. STRANCH: I believe there are -- well, I believe
24 there are 116 plaintiffs, but there are fewer cases because
25 some of the cases contain multiple plaintiffs.

1 JUDGE ZOBEL: Okay. So, that's both pieces of 6(a)?

2 MR. STRANCH: Yes.

3 MS. JOHNSON: Then, your Honor, that brings us to
4 6(b), which is the responses to the show cause order.

5 My office filed earlier today a chart that endeavored
6 to summarize those responses. I do have extra copies if the
7 Court or the clerks would like.

8 JUDGE ZOBEL: Well, actually, my problem is that the
9 -- I have to find the papers. Here it is.

10 One of the documents pertaining to this is the
11 corrected order to show cause, and that has a list of cases.

12 MR. STRANCH: Yes, your Honor.

13 JUDGE ZOBEL: I have some difficulty correlating that
14 order, that list, with the order -- with the summary that you
15 have given me.

16 MS. JOHNSON: Well, let me see if I can help the
17 Court with that a bit.

18 This list that we filed today grew from the list that
19 we provided in the corrected show cause order. So, the list
20 in front of the Court is -- builds on the previous charts and
21 then it added some information in the bottom columns. So, it
22 doesn't perfectly track.

23 You'll notice, for example, your Honor, if you turn
24 all the way to the end, we added columns to reflect filings by
25 the Box Hill plaintiffs and defendants, the Premier plaintiffs

1 and defendants, and a motion to remand filed by Specialty
2 Surgery Center. So, in that sense, this chart is more
3 comprehensive.

4 I think, with the Court's permission, I'd like to
5 make some observations about what's happened with those
6 filings, and also some observations about the number of cases
7 that would be affected, if I may.

8 JUDGE ZOBEL: Let me just ask you doing while we're
9 doing this...

10 (Pause.)

11 JUDGE ZOBEL: Well, go ahead. I'll find it.

12 MS. JOHNSON: Thank you, your Honor.

13 So, I'll first observe that the PSC's suggestion to
14 the Court that initiated this process was that remand may be
15 appropriate for some groups of cases so long as the plaintiffs
16 and the defendants in those matters did not object.

17 The Court then issued a show cause order that
18 required plaintiffs in the remaining clinic cases to file
19 objections if they objected. The Court's order also gave the
20 Box Hill and then Premier groups, both plaintiffs and
21 defendants, an opportunity to indicate what they would prefer.
22 So, they're positioned a little bit differently in the Court's
23 order. So, if we're to start with what we were referring to
24 as the remaining clinic cases, I'll make the following
25 observations:

1 There are nine clinics for which no objection to
2 remand was filed. Those include Cincinnati Pain, OSMC,
3 Ambulatory Care Center, BKC, Sunrise, Dallas Back Pain,
4 Sequoia, Wellspring and PCA. In total, that addresses 17
5 individual civil actions.

6 JUDGE ZOBEL: So that means that those cases would go
7 back to multi-district or to the transfer courts.

8 MS. JOHNSON: That's correct, your Honor.

9 So, procedurally, the PSC's suggestion would be that
10 we would prepare for the Court a proposed suggestion of remand
11 that the Court could then sign on to and file with the panel,
12 such that those cases would then be transferred back to the
13 federal district in which they were transferred from.

14 JUDGE ZOBEL: I'm sorry. Can you give me the list
15 again? Started with Cincinnati.

16 MS. JOHNSON: Cincinnati Pain.

17 JUDGE ZOBEL: Yes.

18 MS. JOHNSON: OSMC.

19 JUDGE ZOBEL: I'm sorry, what was the next one?

20 MS. JOHNSON: OSMC.

21 JUDGE ZOBEL: Okay. Got it.

22 MS. JOHNSON: Ambulatory Care Center, BKC, which I'll
23 return to in a minute, your Honor. Sunrise, Dallas Back Pain,
24 Sequoia, Wellspring and PCA.

25 JUDGE ZOBEL: Okay.

1 MS. JOHNSON: So, again, the --

2 JUDGE ZOBEL: As to those, you will give me an order
3 to remand?

4 MS. JOHNSON: Correct, your Honor. Actually, it will
5 be styled as a proposed suggestion of remand, a paper that the
6 Court traditionally files with the JML as a suggestion of
7 remand, but functionally it's an order for remand, correct.
8 So, as to those, that would mean 17 cases would be transferred
9 back to the district in which they came from.

10 We then had objections to remand filed in five cases.
11 That's APAC, A-P-A-C, and Encino, Ocean State, Fullerton.

12 JUDGE ZOBEL: Wait a minute.

13 (Pause.)

14 JUDGE ZOBEL: Oh, I see Encino. What happened after
15 Encino, Ocean State?

16 MS. JOHNSON: Ocean State, Fullerton, and MAPS is the
17 final. In total, that's nine civil actions included in those,
18 your Honor.

19 JUDGE ZOBEL: And as to those, you propose to file
20 some additional document?

21 MS. JOHNSON: As to those, we would like the Court's
22 suggestion as to how you would like to proceed. In each of
23 those instances, the plaintiffs filed an objection to remand.
24 In two of them, Ocean State and Fullerton, the defendants have
25 already filed papers indicating that they want to be remanded.

1 I believe that counsel for the plaintiffs and defendants in
2 all of those actions are on the telephone. We had at least
3 suggested that they may dial in, in case the Court may wish to
4 ask them questions. And so, from there we really would take
5 the Court's queue as to what the Court would like in order to
6 resolve these apparent disputes.

7 JUDGE ZOBEL: These are all entities who have only
8 one or two or three plaintiffs, right?

9 MS. JOHNSON: APAC has four, your Honor. The rest
10 have one or two.

11 JUDGE ZOBEL: So, four is the maximum number of
12 plaintiffs?

13 MS. JOHNSON: Maximum number of civil actions. I
14 actually don't have the number of plaintiffs, your Honor.

15 JUDGE ZOBEL: But most of them have one group -- a
16 group that belongs together?

17 MS. JOHNSON: Correct. Yes.

18 JUDGE ZOBEL: And then the question is whether they
19 should go back for trial or stay here for trial. I mean,
20 that's what we're now talking about.

21 MS. JOHNSON: Well, your Honor, I think it's
22 actually -- it's a step before trial, because, as the Court
23 may recall, you had issued an order requiring everyone to file
24 lexicon certifications either waiving or not waiving the right
25 to trial in their home district, and only one defendant had

1 agreed to waive lexicon to have their cases tried here.

2 So, I think what the Court is actually -- and that
3 defendant was Insight, who has long since settled. So, it
4 wasn't relevant for today's purposes. So, functionally, at
5 least as it stands for those cases, they would ultimately be
6 tried in the district from which they originated. So, I think
7 --

8 JUDGE ZOBEL: Right. So, the question is whether
9 they're at the point of discovery or whatever is necessary to
10 get them toward trial or whether they need to be here. I
11 think Judge Boal should think about that, too.

12 JUDGE BOAL: I had a question as well. On both sets
13 of -- both categories here, the nine clinics and the five
14 clinics, there are cases that the transfer order was the
15 District of Massachusetts.

16 MS. JOHNSON: Yes, that is correct, your Honor.

17 JUDGE BOAL: So, it potentially with -- in the nine
18 cases with the suggestion of remand, they would just be coming
19 back here?

20 MS. JOHNSON: That is true. At least, I think it's
21 -- forgive me. I think it's two, at least two would stay
22 here.

23 JUDGE BOAL: Some stated in state court?

24 MS. JOHNSON: Yes.

25 JUDGE BOAL: Some started in federal court?

1 MS. JOHNSON: Yes. Correct.

2 JUDGE BOAL: And the same is true with the five
3 group?

4 MS. JOHNSON: That's correct, your Honor, and I did
5 not break that out in my report to the Court just now, but the
6 chart that we filed earlier does make that -- provides that
7 information for the Court.

8 JUDGE BOAL: So, they may be ours for discovery,
9 anyway?

10 MS. JOHNSON: They may be.

11 JUDGE ZOBEL: But, in general, the objection to
12 remand has to do with the assertion that the case isn't quite
13 ripe for remand, not that it should stay here?

14 MS. JOHNSON: No, your Honor. I think the objection
15 in APAC, Encino, Fullerton, MAPS and Ocean State, so I guess
16 all of them, is that it should stay here at least for pretrial
17 purposes, and I have to -- I want to speak with counsel again
18 and read those more closely. I think at least one of those
19 may suggest that trial here may be appropriate.

20 JUDGE ZOBEL: Well, it -- so, pretrial purposes I
21 understand is essentially the close of discovery, including
22 maybe expert discovery, but not individualized discovery,
23 right?

24 MS. JOHNSON: Yes, your Honor.

25 JUDGE ZOBEL: So, the remand -- you would not object

1 to remand as soon as the discovery piece of it is done?

2 MS. JOHNSON: I don't know that, your Honor. I would
3 expect that to be true, but not having spoken with Ms.
4 Dougherty or Mr. Wickstrom, who filed these objections, it's
5 not clear to me what their position is. They may be on the
6 phone.

7 I do know that -- I'll mention this is -- the Ocean
8 State case seems to me to be a little bit differently
9 positioned, because the Ocean State case involves a Rhode
10 Island clinic, over which the Court has personal jurisdiction.
11 It was originally filed in Massachusetts. So, it may be that
12 the trial of the Ocean State case is appropriate and, as Judge
13 Boal has pointed out, there were other cases amongst these
14 group that were filed in the District of Massachusetts, which
15 also may color where trial occurs.

16 JUDGE ZOBEL: But for the majority of these cases,
17 where there are objections, the objection really has to do
18 simply with the timing of remand?

19 MS. JOHNSON: I believe that to be true, your Honor.
20 Out of an abundance of caution, I would want the counsel that
21 filed them to be able to comment on that, but I believe that
22 to be true based on the filings made so far.

23 JUDGE ZOBEL: Because, as I understood it, where we
24 had larger groups, we would have -- continue with the
25 Bellwether system. So, it's whether the groups are small

1 enough so that they should go back, and then the only other
2 question is when --

3 MS. JOHNSON: That is correct, your Honor.

4 JUDGE ZOBEL: -- at the appropriate time now.

5 Would it be helpful, Jenny, to have the plaintiffs
6 and the defendants tell us on timing what they think?

7 JUDGE BOAL: Yes.

8 JUDGE ZOBEL: You know, maybe you could -- we're just
9 now beginning to look at this, but maybe you could give some
10 guidance as to what you think is the best time for remand for
11 those that are not going to go through the Bellwether process.

12 MS. JOHNSON: We can certainly do that, your Honor.
13 My understanding --

14 JUDGE ZOBEL: After consulting with counsel in the
15 individual cases.

16 MS. JOHNSON: Yes, your Honor.

17 My understanding, just to be clear, what the Court is
18 asking for is timing as to those where objections were filed.

19 JUDGE ZOBEL: Right.

20 MS. JOHNSON: Correct.

21 JUDGE ZOBEL: Right. Because at some point they're
22 going to go back unless you're going to try them here. I'm
23 not so concerned about the Massachusetts and Rhode Island
24 cases, but the bunch of others that are desperate to go home.

25 MS. JOHNSON: Yes, your Honor. So, we will speak

1 with counsel, both plaintiffs and defense counsel, in those
2 actions and endeavor to put before some thoughts on timing
3 before the next status conference.

4 JUDGE ZOBEL: Let me ask you, in conjunction with
5 Ocean State, there is the Simas case, in which I have a motion
6 for summary judgment. Does that need to be decided now or is
7 that case different from the other Ocean State cases?

8 MS. JOHNSON: I would defer to Ms. Gresco-Blackburn,
9 Blackburn, who I believe is on the phone.

10 MS. GRESCO-BLACKBURN: I am on the phone.

11 JUDGE ZOBEL: Okay.

12 MS. GRESCO-BLACKBURN: I represent the Simases, your
13 Honor.

14 JUDGE ZOBEL: Well, is that case different from the
15 other plaintiffs?

16 MS. GRESCO-BLACKBURN: Yes, it is, your Honor.

17 JUDGE ZOBEL: In what way?

18 MS. GRESCO-BLACKBURN: We have Simas and separate --
19 the other case is Ocean State vs. Hanson, which is a separate
20 case.

21 JUDGE ZOBEL: I know, but the issue that is raised in
22 the motion to dismiss or summary judgment -- I can't -- some
23 dispositive motion, is that different for the different
24 defendants in the Ocean State -- the different plaintiffs in
25 the Ocean State case?

1 MS. GRESKO-BLACKBURN: Well, we objected to it and
2 the other plaintiffs did not, your Honor. So, it's been fully
3 briefed as far as the Simases are concerned.

4 JUDGE ZOBEL: So, as far as you're concerned, it
5 should be decided?

6 MS. GRESKO-BLACKBURN: Yes.

7 JUDGE ZOBEL: Okay. We'll just decide it, then.

8 MS. GRESKO-BLACKBURN: Thank you.

9 JUDGE ZOBEL: Now, there was one other -- I just saw
10 it somewhere. There are too many charts. The estate of Alice
11 Thompson. There was a motion for more time to object or not.

12 MS. JOHNSON: Yes, your Honor, and that was my firm's
13 motion. We are in the process of speaking with the personal
14 representative and counsel for the estate who had requested a
15 bit more time to decide on whether they wished to be remanded
16 or to stay before this Court.

17 JUDGE ZOBEL: So, I'll allow that motion.

18 MS. JOHNSON: Thank you, your Honor.

19 JUDGE ZOBEL: And then depending on what comes out of
20 it, you will tell me which of the categories it belongs to.

21 MS. JOHNSON: Correct, we will do that.

22 JUDGE ZOBEL: Okay.

23 MS. JOHNSON: I think that then brings us, your
24 Honor, to the filings made by Box Hill and Premier in response
25 to the show cause order, and I will endeavor to just simply

1 state the parties' positions, but leave any argument to the
2 individual counsel involved.

3 JUDGE ZOBEL: Hold it one second.

4 (Pause.)

5 JUDGE ZOBEL: I have Box Hill. I have Premier.
6 Specialty Surgery was part of the list you already covered?

7 MS. JOHNSON: It's not, but Mr. Stranch will address
8 Specialty Surgery next, your Honor, if that's all right.

9 JUDGE ZOBEL: And Edwards was the case in which you
10 wanted more time?

11 MS. JOHNSON: Thompson -- Gilliam and Thompson was
12 the case in which we wanted more time, your Honor.

13 JUDGE ZOBEL: There's one more --

14 MR. STRANCH: In Edwards there was an objection to
15 remand filed by the plaintiff. That's the MAPS case.

16 JUDGE ZOBEL: For extension of time to respond to
17 order to show cause by you, but it says, "Edwards."

18 MS. JOHNSON: Oh, it should not. It should say
19 Gilliam or Thompson, which the plaintiff's names.

20 JUDGE ZOBEL: That's Alice Thompson?

21 MS. JOHNSON: Yes. We've dealt with that one, your
22 Honor.

23 JUDGE ZOBEL: So, that's allowed.

24 All right. And then we have Specialty Surgery and
25 the Premier defendants and Box Hill.

1 MS. JOHNSON: That's correct, your Honor. I'll do
2 those in reverse order, if you'll permit me.

3 As to Box Hill, you recall there's a group of eight
4 cases against Box Hill and some individual doctors that's been
5 pending in the MDL for a while. They have been litigated
6 actively pursuant to a discovery schedule set by the Court.
7 There is no trial date or Bellwether process yet in place for
8 those, but they have been -- that was the anticipation before
9 the Court's show cause order, I think.

10 The plaintiffs have filed papers indicating that they
11 oppose remand. The defendants have filed papers indicating
12 that they would prefer remand. I leave it to the Court,
13 obviously, whether you would like to hear from either.

14 JUDGE ZOBEL: I don't think so because we have been
15 working all along towards Bellwether trials now that the
16 Tennessee cases are gone and STOPNC, whatever they're called,
17 cases are gone. Now, that was the next one in line. My
18 anticipation is that based on what Judge Boal tells me will be
19 the time needed for the discovery, that that will be tried in
20 about a year.

21 MR. KIRBY: Your Honor, if I may. Greg Kirby on
22 behalf of Box Hill. Just briefly -- I'll respect that you
23 don't want to hear from me in general in terms of the whole
24 argument, but I do want to --

25 JUDGE ZOBEL: I do want to hear from you, but

1 briefly.

2 MR. KIRBY: I do want to point out a very important
3 procedural -- the procedural background here. There are eight
4 cases that were filed in Maryland state court that were then
5 removed to the federal court by Ameridose, a former
6 co-defendant that's now settled out, is no longer around, and
7 then we're brought to this MDL and we've been dealing with
8 them for a while.

9 Shortly thereafter, 26 other cases or there about
10 were filed -- other cases against Box Hill Surgery Center were
11 filed by patient plaintiffs, and I shouldn't say "cases."
12 There are -- 26 patient plaintiffs filed suit against Box Hill
13 in the same Maryland state court. They're still in Maryland
14 state court, in Harvard County, Circuit Court for Harvard
15 County, and then --

16 JUDGE ZOBEL: Do they want to come Here?

17 MR. KIRBY: I'm sorry?

18 JUDGE ZOBEL: Do they want to come here?

19 MR. KIRBY: I would prefer that they stay there.

20 However, that gets me to my next argument. The
21 plaintiffs have not expressed in an interest in bringing them
22 here either.

23 There is also about 50 plus other patient plaintiffs
24 who have filed suit against about 17 additional healthcare
25 providers in Maryland. They're not my clients. They're just

1 completely separate actions, and they are all in the same
2 place -- well, they're slit up between two circuit courts.

3 The plaintiffs down there in the state court who are
4 similar attorneys to here that -- there's a PSC -- a member of
5 the PSC's firm who is driving that, and also another attorney
6 from the Angeles firm who is involved in this MDL and the
7 state court action, and they propose a mini-MDL, if you will,
8 in Maryland, in the Maryland state court. As a matter of
9 fact, several of those actions already have all been
10 consolidated into one action for purposes of pretrial -- you
11 know, pretrial discovery. The same --

12 JUDGE ZOBEL: Are these all pending in the Maryland
13 state court?

14 MR. KIRBY: Correct. So, there's about 80 -- more
15 than 80 cases against about 20 healthcare providers in
16 Maryland, and then there's -- including the Box Hill
17 defendants, and then there's the same Box Hill defendants that
18 have eight cases pending against it here. You've got four --
19 you've got the issue we talked about earlier with the
20 healthcare providers and the MDL with only four cases against
21 it. We feel like we're more in line with that situation.
22 There's also -- it's my understanding -- and I don't want to
23 speak for Mr. Blumberg, but that the Premier defendants who
24 we've been lockstep with for a while, they used to be kind of
25 ahead of us in the schedule, if you will. Those plaintiffs

1 and defendants have all agreed that remand would be more
2 efficient to get back to New Jersey, and they have 52 cases, I
3 think, here in the MDL currently and none in the state court
4 of New Jersey, and I would proffer that, you know, we're in
5 that situation where we have only eight cases in the MDL. We
6 have 26 cases in the state court where this mini MDL process
7 here -- there's already a process that's been bandied about,
8 to push those towards trial and to set up an MDL, if you will,
9 mini MDL there, that we're more akin to that situation and
10 fighting us on two fronts. The same plaintiffs attorneys, the
11 same defense attorneys, the same exact defendants, you know,
12 more in the state court than here. And so, in terms of the
13 discovery that has to be done, it would just make much more
14 sense in terms of efficiency to be in the Maryland state
15 court. Maryland plaintiffs, Maryland defendants, injury in
16 Maryland, the subsequent treatment in Maryland. When you talk
17 about -- and MDL law would apply.

18 When you talk about the convenience to the parties
19 and the witnesses, you have all Maryland plaintiffs, all
20 Maryland defendants. You know, to come here and litigate
21 here, you have all of those -- all of those people who would
22 have to spend -- expend great sums of money to come up here,
23 you know, for -- and live up here for a month to try just one
24 case.

25 JUDGE ZOBEL: It's going to take a month to try the

1 case?

2 MR. KIRBY: Well, to prepare the trial.

3 And in addition to those -- so, put that aside.

4 You've got all these, quote, "innocent" witnesses,
5 the witnesses that have no involvement and didn't ask to be
6 involved. The treating physicians, you know, the other
7 witnesses, the other fact witnesses to this case, they would
8 also have to come up here.

9 Now, I think what the plaintiffs said in their
10 filing, they talked about that that's not a big deal. Don't
11 worry about the inconvenience to those people, but they were
12 more concerned about the inconvenience to a few potential
13 witnesses, those being, I think, the national settling
14 defendant witnesses, to which discovery has already occurred.
15 And so, they would only have to deal with the trial aspect,
16 and there's also issues of whether they have fault here, you
17 know, in terms of the causation argument. So, they put
18 themselves in that situation versus these other witnesses. I
19 mean, the treating physicians, you know, for these patients
20 would have to, you know, travel up here and close down their
21 practices for the day or more to do that.

22 So, we feel that in terms of the convenience, it's
23 much more -- any minimal convenience to the settling defendant
24 witness is -- it outweighs, you know, putting their -- putting
25 these others Maryland witnesses out to have to come up here.

1 They also mention -- I think this is important. I
2 think one of the plaintiffs' arguments is that, Oh, well, now
3 there's this issue of -- I think they have to -- the
4 plaintiffs have to indemnify, or whatever the settlement
5 agreement says, you know, the settling defendants. So, if
6 they have to come down to Maryland to testify, that would
7 incur additional costs and --

8 JUDGE ZOBEL: What settling defendants are you
9 talking about?

10 MR. KIRBY: Well, what I'm talking about are the
11 national defendants. So, to the extent that Liberty and
12 Unifirst -- so, there were --

13 JUDGE ZOBEL: You mean in connection with the
14 comparative fault?

15 MR. KIRBY: Right. Maryland doesn't comparative
16 fault, but we have the Uniform -- we have UCATA. It's a
17 statute that's allows joint tortfeasor status and then there's
18 a -- to put it simply, a discount or setoff for any joint
19 tortfeasors who are involved.

20 There's no additional costs. There's no additional
21 moneys that the settling defendants -- the national settling
22 defendants would have to pay or incur. They wouldn't have --
23 they, you know, wouldn't have to deal with anything. It's
24 just that Box Hill would get -- would get a setoff or a
25 discount for them being joint tortfeasors.

1 So, the plaintiff said, well, if they have to come
2 down to trial and defend themselves, that would be an
3 additional cost. We tried to remedy that early on by asking
4 the plaintiffs' attorneys to agree and to classify these other
5 national settling defendants, Liberty and UniFirst and Victor
6 and ARL, to suggest that they be labeled as joint tortfeasors
7 for purposes of this, and that would eliminate a lot of -- a
8 lot of the trial, a lot of the issues. It would have been to
9 be discussed, and it would eliminate the cost to those
10 entities to be involved, and the plaintiffs refused.

11 It's their right, but the problem with that is that,
12 you know, when -- they simply -- the plaintiffs wanted to
13 double dip. I mean, they want this settlement money, nearly
14 \$50 million and -- I don't know what it is exactly. So, they
15 get that settlement money from these entities, but in the same
16 breath, if there's a judgment of damages -- so, the total
17 damages incurred for these plaintiffs -- for these patient
18 plaintiffs, they want to get -- they want to get all of that
19 money from Box Hill, regardless of whether these other
20 entities had some fault in there.

21 And I bring this up because it's an important point.
22 When the litigation started, the plaintiffs sued these other
23 entities or at least blamed them and said Liberty had a faulty
24 design clean room. Unifirst didn't clean right, and ARL
25 didn't test the stuff right, and Victory didn't keep up the

1 HVAC unit. So, they screamed to the high heavens that these
2 entities had fault.

3 But then when they settled with these entities for
4 about \$50 million in total, they then changed their tune and
5 ever since have wanted to disavow any responsibility for these
6 other entities and that's because they want to double dip in
7 the damages and the money awarded.

8 So, any inconvenience for these -- for these settling
9 defendants is far less and, frankly, their fault compared to
10 the Maryland witnesses who are all mostly down there already,
11 you know, live and work in Maryland not from the far from the
12 courthouses --

13 JUDGE ZOBEL: When do the Maryland cases in Maryland
14 going to trial?

15 MR. KIRBY: So, I don't have an exact date, and I
16 apologize. I don't have a scheduling order with me, but there
17 are a whole slew of the Maryland cases that are scheduled I
18 think sometime in -- I think it's the end of 2017 or
19 thereabouts. The cases against Box Hill are in Hartford
20 County Circuit Court. The plaintiffs in that case, which
21 involved members of the plaintiff's steer committee's firm,
22 had suggested that we put all of the Maryland cases
23 together -- they're in neighboring counties -- put all of them
24 together and go with the same scheduling order and have
25 everything together so that we have consistent rulings.

1 We agreed to that. Box Hill defendants agreed with
2 that. There have been several other defendants who have maybe
3 had a different opinion, and I think we're going to have a
4 scheduling conference at some point with the judge to discuss
5 that.

6 JUDGE ZOBEL: Okay. Is there anyone on the telephone
7 who desperately needs to add anything?

8 MR. COREN: Your Honor, there are two counsel, I
9 believe, for the plaintiffs are. On the phone speaking is
10 Michael Coren. I appeared before your Honor. I was co-chair
11 of the creditors committee a number of times, and you may
12 remember me. And then Patty Kasputys from Peter Angelo's
13 office is also on the line, I believe. If I may ask Patty if
14 she wants me to first speak or if she wants to speak first.

15 MS. KASPUTYS: I would be glad to speak first. This
16 is Patty Kasputys, and I would like to, if I could, point out
17 a number of inaccurate statements that were just represented
18 to the Court by defense counsel and --

19 JUDGE ZOBEL: I'm sorry. Whom do you represent?

20 MS. KASPUTYS: We represent seven of the plaintiffs
21 in the MDL who have filed cases against Box Hill Surgery
22 Center, what was two Bonnie LLC. So, Mr. Coren represents one
23 of the other plaintiffs in these cases.

24 MR. COREN: Your Honor, that would be Megan Handy.
25 Megan Handy is the executrix of the Estate of Brenda Rozeck,

1 R-o-z-e-c-k. Brenda Rozeck is one of the two murder victims
2 that are -- will be before the Court in the trial of the case
3 of Cadden, et al., on The criminal matter. She is one of the,
4 as I said, two murder cases that are in the MDL.

5 JUDGE ZOBEL: Well, if you want to add anything to
6 what counsel have said so far, please do it quickly.

7 MR. COREN: Patty?

8 MS. KASPUTYS: Yes. First -- I'm sorry. Do you want
9 Mr. Coren to go first, your Honor.

10 JUDGE ZOBEL: I just want somebody to talk, but very
11 briefly.

12 MR. COREN: Patty, you go.

13 MS. KASPUTYS: Okay. I would like to say at the
14 outset that this is, in fact, an order that was entered on May
15 5th, Document No. 2851, that provides in both the Box Hill and
16 the Premier cases for discovery that goes beyond the common
17 fact discovery deadlines, which we've been adhering to since
18 the case first came to this Court in late 2014, and this does,
19 indeed, provide for the Bellwether process and case-specific
20 expert report and the completion of case-specific expert
21 deposition in July of 2017. Mr. Kirby represented that there
22 is a trial date in the Baltimore County circuit court cases.

23 I might add, there is where a scheduling order has
24 been entered by the state court for common issues discovery,
25 but it expressly excludes the eight cases that Mr. Coren and

1 my firm represent that are before your Honor, and we have a
2 strong position that the cases should continue to proceed
3 before this Court, as there has been discovery that has been
4 proceeding. There has also been motion practice before your
5 Honor where, in fact, significantly, the defendant made
6 expressed representations that it intends before the Court to
7 advise the plaintiffs of notice that it intends to present
8 evidence of the liability of the national and national
9 affiliated defendants and unaffiliated defendants. The
10 approximately 50 cases that are pending in the circuit court
11 for Baltimore County is, again, not against Box Hill. They're
12 not, as Mr. Kirby said, the same exact defendants. There are
13 none of the same defendants in that court. The cases -- this
14 firm respects twelve cases against -- plaintiffs in twelve
15 cases against Box Hill in the circuit court for Hartford
16 County Maryland where there are no scheduling orders in place,
17 and, your Honor, just to be brief, I just want to make it
18 clear that --

19 JUDGE ZOBEL: I'm laughing because "to be brief" at
20 the end of a long narrative.

21 MS. KASPUTYS: I apologize. I'll finish, your Honor,
22 but we didn't put the indemnity issue and claim that anybody
23 has to come to Maryland to have those issues tried. In fact,
24 we've opposed the defendants proceeding on any cross-claims or
25 third-party claims, and that's -- I'll conclude with that

1 remark, your Honor.

2 JUDGE ZOBEL: Thank you very much.

3 MS. KASPUTYS: Thank you.

4 MS. JOHNSON: The PSC's view, your Honor, is that it
5 makes sense for the Box Hill cases to remain here and to
6 continue according to the established schedule.

7 JUDGE ZOBEL: Okay. So that one I'll have to decide.

8 MS. JOHNSON: That brings us, then, to Premier, your
9 Honor, and I believe there's no decision needed here. In
10 Premier, you'll recall that there are about 40 cases pending
11 in the MDL. The defendants want -- or asked this Court to
12 remand, and none of the plaintiff's attorneys have objected to
13 that.

14 JUDGE ZOBEL: So that should be allowed without
15 objection?

16 MS. JOHNSON: Yes, your Honor.

17 MR. BLUMBERG: Judge, if I could, this is Jay
18 Blumberg representing Premier.

19 Just to complete the record to make certain that
20 there's no confusion, two things:

21 One is, the attorney for two additional defendants,
22 Dr. Perkins and Dr. Bhagat, who traditionally are included in
23 the Premier cases, would join in a request for remand, and
24 there has been no objection that I have seen from the
25 plaintiffs.

1 And the one thing I want to -- I would be remiss -- I
2 did receive an email from one of the cases, the Over Street
3 case, which is represented -- I think the plaintiff is
4 represented by Ms. Dougherty, that did object, and it really
5 creates an interesting issue.

6 She directly filed in the District of Massachusetts
7 instead of filing in New Jersey at a point in time when she
8 was entitled to do that because of the MDL, and we would ask
9 that all of the cases, including that one, get transferred
10 back to New Jersey. It doesn't make any sense to keep one
11 case up here in the state of Massachusetts.

12 JUDGE ZOBEL: I'm sorry, what's the number of that
13 case or the name of it?

14 MR. BLUMBERG: It's Overstreet, John Overstreet. I
15 don't have the number, your Honor.

16 JUDGE ZOBEL: Okay.

17 MS. JOHNSON: As a procedural matter, I don't believe
18 the Court can, pursuant to a suggestion for remand, send that
19 case back under 1404. I think there has to be a separate
20 motion for transfer.

21 JUDGE ZOBEL: Es.

22 MR. BLUMBERG: I'll file the appropriate motion, your
23 Honor.

24 JUDGE ZOBEL: Okay.

25 MS. JOHNSON: And then that brings us, finally, your

1 Honor, to Specialty Surgery Center, which Mr. Stranch will
2 address.

3 JUDGE BOAL: Can I just ask, since Premier and Box
4 Hill are together for purposes of scheduling at this point, if
5 the Premier cases are no longer here -- and, obviously, Judge
6 Zobel needs to decide whether the Box Hill cases that are here
7 will remain here -- is there an opportunity to shrink the
8 schedule?

9 MS. JOHNSON: I would defer to Ms. Kasputys for her
10 views on that.

11 MS. KASPUTYS: Absolutely. I think we can certainly
12 discuss that, your Honor.

13 JUDGE BOAL: I understand you may dispute that, but,
14 obviously, it's up to Judge Zobel what she's going to go with
15 the Box Hill cases, but if they still here, I would certainly
16 ask the parties to consider that.

17 MR. KIRBY: Well, let me just add my two cents in
18 response. And that is, I think when the deadlines were set,
19 it took into consideration the timing of which, you know, it
20 takes to designate experts and do deposition discovery, and
21 the like. And so, I think that it wasn't that the Box Hill
22 schedule was set based on having another -- having Premier
23 here already. I think -- you know, that would be maybe down
24 the road with the trial schedule.

25 JUDGE BOAL: We would be talking eight versus 60

1 plaintiffs, right? And I don't know what experts the
2 plaintiffs would be using for common issue or if there's
3 overlap with what's already been done with Tennessee, so that
4 that might be able to be shortened in this trial.

5 MR. KIRBY: Let me just add one more, if I may -- one
6 more point, if I may, and that's with regards to consistency
7 and efficiency.

8 There are depositions that we would take in the
9 common-issue phase of the MDL for our eight cases. That would
10 include, for example, the Maryland Board of Pharmacy,
11 representatives of the Maryland Board of Pharmacy, Maryland
12 Department of Health, but the same thing would happen in the
13 state court cases, and I don't really just mean mine, the Box
14 Hill cases. As a matter of fact, I think yesterday one of the
15 other clinic defendants that is unrelated to me in the state
16 court cases served a notice or a subpoena for a deposition on
17 the Maryland Board of Pharmacy and the Maryland Department of
18 Health.

19 So, my point is, if we're back in Maryland -- or our
20 case is back and join the other 80 in Maryland, it would
21 streamline the process. So that the -- it can happen once.

22 JUDGE ZOBEL: I don't understand that. If you
23 respect the Box Hill defendants, why can't you all agree that
24 whatever discovery is taken in one jurisdiction applies to the
25 other jurisdiction? You're going to have the same experts and

1 the same -- substantially the same part -- same witnesses.

2 MR. KIRBY: Well, I'm represented by different
3 counsel. I mean, I don't --

4 JUDGE ZOBEL: So?

5 MR. KIRBY: There's another example with fact
6 witnesses and there are fact witnesses who -- one used to be
7 employed by Box Hill, but is now employed at one of the other
8 clinic defendants who is being sued, and it's walking a tight
9 rope because the plaintiffs want to take the deposition for
10 purposes of the MDL, but the concern is -- and it's not --

11 JUDGE ZOBEL: Which MDL, the ones you've manufactured
12 in Maryland or the one that's here?

13 MR. KIRBY: These eight MDL cases. The other 26 were
14 never in the MDL. They were in --

15 JUDGE ZOBEL: But You called it like the MDL. You
16 said you --

17 MR. KIRBY: I'm sorry.

18 So, Ms. Kasputys is on the phone, noted the
19 deposition of these two employees for purposes of this MDL,
20 but they're certainly employees of another healthcare provider
21 clinic defendant in the state court cases, and the concern is
22 that their testimony could -- and some of the questions are
23 geared towards, Well, what does this other ambulatory surgery
24 center do, you know, in terms of its processes, and stuff, and
25 the concern is that those questions would have an implication

1 on the state court cases. Whereas, it's only noted in the MDL
2 for purposes of the Box Hill case, and that just goes to my
3 point about having everything together.

4 JUDGE ZOBEL: Well, that witness might be deposed by
5 the Box Hill plaintiffs in Maryland.

6 MR. KIRBY: Well -- and if that were to happen, maybe
7 it would happen once for all of the cases and not two or three
8 times. There's also the question of disparate rulings. I
9 mean, this Court has ruled certain ways on certain things and
10 the state court judge can -- could rule differently -- you
11 know, different ways on the same thing.

12 JUDGE ZOBEL: But they haven't yet.

13 MR. KIRBY: It's not for lack of trying. I don't
14 think the judges, but the plaintiffs are -- you know, we had
15 asked the plaintiffs to drop certain claims that were
16 disallowed in this Court and, you know -- but we filed a
17 motion to dismiss, and they refused to do it. So, they're
18 still pursuing it. So, there's the chance that there will be
19 competing appeals to different courts. So, just wanted to
20 bring that up.

21 JUDGE ZOBEL: All right.

22 MS. JOHNSON: On that note, your Honor, I'll just
23 remind the Court that Ms. Martin was appointed the federal
24 state liaison to liaise in this exactly this type of
25 situation. So, to the extent there's any liaising that needs

1 to be done as a result this, she was happy to do so.

2 JUDGE ZOBEL: Okay. You know her, do you not? So
3 you can talk with her about making sure that there's no
4 duplication.

5 MR. KIRBY: We'll see what happens.

6 JUDGE ZOBEL: Thank you.

7 All right. Now we go to Specialty Surgery.

8 MR. STRANCH: Yes, your Honor. Specialty Surgery was
9 not subject to the show cause order. They were -- they were
10 one -- they were the other big clinic in Tennessee that has
11 over 20 cases against them.

12 Now that we've reached our agreement principle with
13 all of the Saint Thomas cases, Specialty Surgery is next, and
14 one of the things we were going to be asking the Court for was
15 that we go ahead and set a Bellwether schedule for Specialty
16 Surgery.

17 Common discovery is almost completed at this point.
18 We're waiting on a ruling from Judge Boal that was argued
19 today that will -- once it's ruled upon, will lead to the last
20 couple of depositions and then we'll ready to move into the
21 next phase.

22 JUDGE BOAL: So, I'm a little bit confused about the
23 schedule based on the order that I had issued in February.
24 So, the close of common fact discovery was 30 days after the
25 Court's ruling on the motion to compel, which I think has been

1 done for the Court's ruling on the 12(b) motion by Culclasure
2 & Associates.

3 MR. STRANCH: Culclasure, yes. Culclasure opted not
4 to file a motion to dismiss and they filed answers last week,
5 your Honor.

6 JUDGE BOAL: So, when is the close of common fact
7 discovery?

8 MR. STRANCH: We're not sure. I would assume it
9 would be 30 days after that. That's why I was suggesting we
10 need to go ahead --

11 JUDGE BOAL: 30 days after what?

12 MR. STRANCH: After the answer, I guess.

13 JUDGE BOAL: I see. So, did they file the answer?

14 MR. STRANCH: They filed the answer last week, but I
15 would suggest to the Court that what we need to do is we need
16 to go ahead and enter a Bellwether schedule with hard stop
17 dates on common discovery, experts, a process to pick the
18 Bellwether cases that would proceed to trial, because once we
19 get the ruling from Judge Boal that was argued today, we'll be
20 able to do the last two or three depositions and review those
21 documents, and we'll be ready to move on.

22 JUDGE ZOBEL: Are you operating with the committee,
23 the PSC?

24 MR. STRANCH: Yes, your Honor. I'm a member of the
25 Plaintiffs' Steering Committee.

1 JUDGE ZOBEL: That's what I thought. So, I thought
2 we had agreed at one point that following the Tennessee
3 Bellwether trial, that the next would be Box Hill, I thought.

4 MR. STRANCH: Well, what we originally discussed,
5 your Honor, was that Tennessee would have all the Bellwethers
6 and it would be Saint Thomas and Specialty Surgery. We then
7 had a discovery issue in Specialty Surgery and those cases
8 dropped behind. I think we were actually ahead of Box Hill
9 and Premier.

10 JUDGE ZOBEL: Why don't you when you give us your
11 next report, give the next report to Judge Boal. Include in
12 it your proposal for Bellwether trials.

13 MR. STRANCH: Be happy to do it, your Honor.

14 JUDGE ZOBEL: And keep in mind that it may be that,
15 depending on who the defendant -- the group of defendants is,
16 that it may be not necessary to have another year of
17 discovery.

18 MR. STRANCH: I don't believe we need another year of
19 discovery, your Honor.

20 JUDGE BOAL: Because there's a schedule already in
21 place. So that the -- if it's 30 days from yesterday, so then
22 there's a deadline based on that last week for the common
23 expert reports, rebuttal common reports, and expert
24 depositions. So, those should all be proceeding without
25 further order of the Court. So, what you're asking for is the

1 steps after that, but from what you're saying, the steps after
2 that would still come in ahead of the Box Hill and Premier
3 defendants.

4 MR. STRANCH: I believe so, your Honor.

5 JUDGE BOAL: So, those cases could be tried in the
6 spring potentially.

7 MR. STRANCH: Yes, your Honor.

8 JUDGE ZOBEL: So, what you're suggesting is these
9 Specialty Surgery cases are first.

10 MR. STRANCH: That's correct, your Honor.

11 JUDGE ZOBEL: Okay. I mean, if that's what you --
12 makes no difference to me.

13 MR. STRANCH: We'll meet and confer with the
14 defendants' counsel and see if we can't work up a schedule
15 that works for everyone, and we'll hope to -- we'll present it
16 to the Court for competing proposals before --

17 JUDGE ZOBEL: I hope so. Let me know who the
18 defendants -- which defendants are going to go in what order
19 for the Bellwether trials.

20 MR. STRANCH: Yes, your Honor, we'll do that.

21 MR. TARDIO: Your Honor, Chris Tardio --

22 JUDGE ZOBEL: Also, the Maryland cases, who knows,
23 may end up by the wayside or in Maryland.

24 MR. STRANCH: Yes, your Honor.

25 MR. KIRBY: That would be preferred.

1 JUDGE ZOBEL: I know. And you do get the last word
2 on it.

3 MR. COREN: Your Honor, just for Box Hill, to be
4 clear, and miss enhanced our desire is to --

5 JUDGE ZOBEL: Excuse me. Who is speaking, please?
6 Wait a minute. The reporter needs to know -- I need to know
7 who is speaking.

8 MS. COREN: Mike Coren, your Honor, Ms. Handy's
9 client.

10 I think in terms of working out -- obviously, we have
11 a good relationship with the Tennessee plaintiffs and we'll
12 work out, you know, the schedule that could satisfy the
13 Court's needs as well as the litigants' needs.

14 JUDGE ZOBEL: I will give you a very quick decision
15 on whether Box Hill is here or there, and then you can include
16 that in the total picture that you're going to present about
17 Bellwether trials.

18 MR. COREN: Thank you, your Honor.

19 JUDGE ZOBEL: And I guess the Massachusetts cases are
20 in Bellwether. I think I have jurisdiction to do that. So,
21 they should be fitted in there somewhere, too. Anybody else?

22 MR. TARDIO: Your Honor, Chris Tardio. I represent
23 Specialty Surgery Center. I need to note two important
24 points:

25 One is -- maybe directed more to Judge Boal because

1 of the scheduling order. The reason I think that the
2 scheduling order hinged on the ruling or the resolution of the
3 motion to dismiss was to determine whether or not the
4 Culclasures were going to be in the case because that will
5 impact discovery and also expert witnesses.

6 My understanding is that they will file -- I'm
7 assuming they will file a motion. Maybe it's not a motion to
8 dismiss, but I assume they will file a dispositive motion.

9 So, what I'm afraid of is our expect deadline will
10 come and we will have to incur expense and time disclosing
11 experts, taking Culclasure discovery, when they have a -- it
12 doesn't matter what I think, but a good faith statute of
13 limitations defense and may not end up in the case. So,
14 that's --

15 JUDGE BOAL: But they haven't raised it right now as
16 a Rule 12(b). So, they've made that decision, right? So
17 they're going forward. I know you're not their counsel.

18 MR. TARDIO: I understand. I understand.

19 The second point to the remand issue, we had filed
20 yesterday a motion -- we were left out of the show cause
21 order. Specialty Surgery is kind of isolated as a separate
22 group of cases. We filed a separate motion for suggestion of
23 remand yesterday and for ultimate transfer back to Tennessee
24 at the conclusion of common discovery. That's our position.

25 The timing of the motion was because these issues

1 were going on now, we thought it most efficient to handle our
2 issues, too. So, I would note that one would need to be
3 decided, hopefully, along with all these other clinics.

4 JUDGE ZOBEL: Okay. So, it's Box Hill and Specialty.
5 All right.

6 MR. KIRBY: Your Honor, Greg Kirby for Box Hill.

7 I don't have any other business, I don't believe, and
8 I'm trying to catch a plane. May I be excused?

9 JUDGE ZOBEL: You go right ahead.

10 MR. KIRBY: I'm sure you're happy to get rid of me.

11 JUDGE ZOBEL: That's not true at all.

12 MR. KIRBY: Thank you, your Honor.

13 (Attorney Kirby is excused from the courtroom.)

14 MR. STRANCH: Your Honor, this is Gerard Stranch for
15 the PSC on the Specialty Surgery motion to remand and transfer
16 back to Tennessee.

17 If the Court is going to consider that motion, then
18 we would like to have an opportunity to file a response to it.
19 And so, we just need to know when the Court would like to have
20 our response on that, because we don't think the cases should
21 be remanded and transferred. The Court considered this in the
22 Saint Thomas cases and denied the same request. And so, we're
23 not sure what --

24 JUDGE ZOBEL: You can have faith.

25 MR. STRANCH: We have faith. I have faith in you,

1 your Honor.

2 JUDGE ZOBEL: I'm sorry?

3 MR. STRANCH: I have faith in you, your Honor.
4 You're doing great so far.

5 JUDGE ZOBEL: How much time do we -- when do you want
6 to file this?

7 MR. STRANCH: Two weeks, 14 days.

8 JUDGE ZOBEL: Did we tell Specialty Surgery -- their
9 motion is pending.

10 MR. STRANCH: They filed it yesterday.

11 JUDGE ZOBEL: Yes. Okay. So, you want two weeks to
12 file an opposition?

13 MR. STRANCH: That would be fine.

14 JUDGE ZOBEL: You go right ahead.

15 MR. STRANCH: Thank you, your Honor.

16 JUDGE ZOBEL: That's Docket No. 2939 that you're
17 talking about, right?

18 MS. JOHNSON: Yes, I believe so, your Honor, yes.

19 MR. STRANCH: Yes.

20 JUDGE ZOBEL: All right. Now, back to the -- I think
21 we had finished with the remand, correct.

22 MS. JOHNSON: Yes, your Honor.

23 JUDGE ZOBEL: And now we go back to the agenda.

24 MR. STRANCH: Your Honor, the next thing on the
25 agenda is the Specialty Surgery defendant's motion for summary

1 judgment. They did not file pursuant to the Court's order a
2 request for leave to file the summary judgment. We have not
3 opposed their request to file it yet, but they filed a notice
4 saying that we've -- that we've not opposed their motion for
5 summary judgment. Whenever the briefing is due on that, we do
6 intend to oppose that. I just want to make sure that is
7 clear.

8 JUDGE ZOBEL: Do they still have time to file an
9 objection, an opposition?

10 MR. STRANCH: Your Honor --

11 JUDGE ZOBEL: They haven't filed their motion.

12 MR. STRANCH: They filed -- they didn't follow the
13 procedure the Court set out in the MDL order back in July of
14 2015 that required that before you file a motion for summary
15 judgment, you seek leave of the Court to do so. They just
16 filed the motion for summary judgment.

17 MR. TARDIO: That's because the order requiring leave
18 only applied to the STOPNC cases, as I understood it.

19 MR. STRANCH: That is not correct.

20 MR. TARDIO: Well, if it's not correct, then we will
21 go through the proper procedure, but all the motion is asking
22 for is the Court apply the same Tennessee legal ruling that
23 the Court entered in the STOPNC cases to the SSC cases. I
24 don't know what the opposition would be.

25 JUDGE ZOBEL: Is there any reason why we can't allow

1 this motion to stand and you oppose it if you want?

2 MR. STRANCH: We're happy to do oppose it, your
3 Honor.

4 JUDGE ZOBEL: So, we'll deal with it as properly
5 filed. And you'll oppose it when?

6 MR. STRANCH: 21 days from today.

7 JUDGE ZOBEL: Okay. That would be --

8 COURTROOM DEPUTY CLERK YORK: That would be the 13th,
9 Judge.

10 JUDGE ZOBEL: The 13th?

11 COURTROOM DEPUTY CLERK YORK: Yes.

12 JUDGE ZOBEL: July 13th.

13 COURTROOM DEPUTY CLERK YORK: Yes.

14 MS. JOHNSON: That brings us to Item 7, your Honor,
15 which would be the schedule for future status conferences.

16 JUDGE ZOBEL: Does August, September mean August or
17 September or both?

18 MS. JOHNSON: Sadly, it means August, September and
19 July. So, the Court will recall that July 28th we had set a
20 pretrial conference --

21 JUDGE ZOBEL: And you want to turn that into a
22 regular --

23 MS. JOHNSON: Exactly, your Honor. We suggest
24 converting that to the status conference on July 28th.

25 JUDGE ZOBEL: And then when do you want -- August,

1 September?

2 MS. JOHNSON: Yes, August 18th we were proposing or,
3 perhaps, the 24th would work for the plaintiffs.

4 JUDGE ZOBEL: Why don't we do August 24th.

5 COURTROOM DEPUTY CLERK YORK: The 24th? Okay.
6 August 24th, at 2:00?

7 JUDGE ZOBEL: Yes.

8 COURTROOM DEPUTY CLERK YORK: Okay.

9 JUDGE ZOBEL: And September we don't need to worry
10 about yet, right?

11 MR. STRANCH: We suggest that we do set that, your
12 Honor, only because with school resuming, the travel can be
13 difficult.

14 JUDGE ZOBEL: When in September?

15 MR. STRANCH: We are suggesting the 29th or, perhaps,
16 the 22nd.

17 JUDGE ZOBEL: 29th is fine.

18 COURTROOM DEPUTY CLERK YORK: 29th, at 2:00, okay.

19 MS. JOHNSON: And just one second, your Honor, if I
20 may.

21 (Discussion off the record.)

22 MR. SOBOL: Your Honor, given the scheduling
23 commitments that Ms. Johnson has on July 28th, would be okay
24 if Ms. Martin and Mr. Ellis were here instead of either she or
25 I?

1 JUDGE ZOBEL: I don't have a problem, but if you want
2 to change it to the 22nd, we'll do it on the 22nd. It's up to
3 you.

4 MR. SOBOL: It's up to you.

5 MS. JOHNSON: No. We're fine, your Honor, with Ms.
6 Martin and Mr. Ellis say handling that conference. Thank you.

7 MS. GREER: Your Honor, could we just confirm those
8 dates real quickly? Because I've been hearing different --

9 JUDGE ZOBEL: I'm sorry?

10 MS. GREER: Could we just confirm those dates because
11 I'm not sure --

12 JUDGE ZOBEL: Yes. July 28th, August 24, and
13 September 29.

14 MS. GREER: Thank you.

15 JUDGE ZOBEL: Now, did we -- I think we finished with
16 Abdul Barakat and we decided that I need to decide, right?

17 MS. JOHNSON: Correct, your Honor.

18 That brings us to briefing in progress. There's only
19 one item there, which is Massachusetts Board of Pharmacy's
20 motion to withdraw.

21 JUDGE ZOBEL: I endorsed that, Lisa, somewhere. So
22 I'll give it to you.

23 COURTROOM DEPUTY CLERK YORK: Okay.

24 MS. JOHNSON: That brings us to F, which is just to
25 itemize for the Court's reference the motions that have been

1 stayed as a result of the Court's order addressing Saint
2 Thomas.

3 JUDGE ZOBEL: It's quite a list.

4 MS. JOHNSON: I know, it's quite a number, isn't it?
5 So, that's actually Items 10 through 25.

6 JUDGE ZOBEL: All right.

7 MS. JOHNSON: And I believe that brings us to the end
8 of the agenda, your Honor.

9 JUDGE ZOBEL: Is there any other business that we
10 need to take care of by counsel who are here or by counsel on
11 the phone?

12 (No response.)

13 JUDGE ZOBEL: In that case, we're adjourned. Thank
14 you again.

15 MS. JOHNSON: Thank you.

16 MR. STRANCH: Thank you, your Honor.

17 MR. SOBOL: Have a nice summer.

18 JUDGE ZOBEL: I'm going to be here at least two
19 months of the summer.

20 (Adjourned, 3:21 p.m.)
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C E R T I F I C A T E

I, Catherine A. Handel, Official Court Reporter of the United States District Court, do hereby certify that the foregoing transcript, from Page 1 to Page 65, constitutes to the best of my skill and ability a true and accurate transcription of my stenotype notes taken in the matter of Multidistrict Litigation No. 13-02419-RWZ, In Re: New England Compounding Pharmacy Cases Litigation.

June 25, 2016
Date

/s/Catherine A. Handel
Catherine A. Handel, RPR-CM, CRR